

J. SCOTT MOEDE, OSB 934816  
Chief Deputy City Attorney  
scott.moede@portlandoregon.gov  
NAOMI SHEFFIELD, OSB 170601  
Deputy City Attorney  
naomi.sheffield@portlandoregon.gov  
ROBERT YAMACHIKA, OSB 065560  
Senior Deputy City Attorney  
rob.yamachika@portlandoregon.gov  
Portland City Attorney's Office  
1221 SW 4th Ave., Rm. 430  
Portland, OR 97204  
Telephone: (503) 823-4047  
Facsimile: (503) 823-3089  
*Of Attorneys for Defendant City of Portland*

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF OREGON**  
**PORTLAND DIVISION**

DON'T SHOOT PORTLAND, a nonprofit corporation, in its individual capacity, NICHOLAS J. ROBERTS, in an individual capacity and on behalf of themselves and all others similarly situated, MICHELLE "MISHA" BELDEN, in an individual capacity and on behalf of themselves and all others similarly situated, ALEXANDRA JOHNSON, in an individual capacity and on behalf of themselves and all others similarly situated,

**PLAINTIFFS,**

v.

CITY OF PORTLAND, a municipal corporation, and MULTNOMAH COUNTY, a political subdivision of the State,

**DEFENDANTS.**

**3:20-cv-00917-HZ**

**DECLARATION OF OFFICER  
HEATHER MARTLEY**

**(In Support of Defendant City of Portland's  
Response to Plaintiffs' Motion for  
Preliminary Injunction)**

I, Heather Martley, declare as follows:

1. I have been an officer with the Portland Police Bureau for over 9 years. I am currently assigned as an officer in the Human Trafficking Unit. I also serve on the Police

Bureau's Rapid Response Team ("RRT"). I have been a member of RRT since March 2014. I am

currently certified as an RRT grenadier and have served in this role since May 2018. My training includes the police academy, Portland police advanced academy, as well as Portland Police Bureau in-service trainings. I also receive at least 40 hours annually of additional training as part of RRT including, but not limited to, small unit tactics, crowd behavior, crowd control, less lethal munitions training, and RRT team training.

2. On Sunday May 31, 2020, I was assigned to the Rapid Response Team Charlie Squad in the area of the Justice Center and Mark O. Hatfield Federal Courthouse on SW 3<sup>rd</sup> Ave. I was in full uniform that was black in color with my badge and Police markings displayed on my load bearing vest.

3. Our entire team is specially trained in crowd control management. We were initially activated for the demonstrations on the evening of Friday, May 29, 2020. Since Friday, there had been several thousand peaceful protests throughout the downtown area, along with several hundred agitators that had displayed aggressive behaviors that resulted in objects being thrown at Officers, Officers and civilians being injured, several windows broken throughout downtown on businesses and public buildings, fires inside institutions and on the streets, excessive vandalism to exterior buildings with spray paint, and massive theft from inside retail stores. Our purpose was to help keep peaceful protesters and property safe from aggressive individuals and maintain the safety and security of the area where we were deployed.

4. At approximately 1630 hours, several hundred citizens had gathered in the parks around the Justice Center and Mark O. Hatfield Federal Courthouse on SW 3<sup>rd</sup> Ave where I was deployed. There was chain-link fencing surrounding the immediate curtilage of the Justice Center. The chain-link had to be installed due to riotous activities the night before during which windows along the entrance to the jail on SW 3<sup>rd</sup> Ave were destroyed. Several of the glass windows that contain administrative offices and were also vandalized to include entry by protesters, arson, and destruction of property inside were now boarded up.

5. In the area I was stationed I observed many citizens wearing masks over their face. While it appeared some masks were indicative of COVID-19 face coverings, there were also several bandanas, gas masks or similar respirators, goggles, face masks for snorkeling or scuba diving, and other clothing that I know and have observed from individuals who wish to prepare and engage in aggressive behavior and tactics toward Police at protests. I observed individuals wearing long sleeved clothing, long pants, and boots. The weather outside was warm and dry. I noted several backpacks amongst the crowd that had weight to them as they sagged on the protesters' backs. Based on my training and experience, I know that projectile objects and weapons may be stored and concealed in these packs. I also saw several industrial style spray bottles that were filled with clear liquid like water, but mostly a milky white substance, that I believed to be milk. This is commonly seen in the possession of people at protests of this nature who intend to engage aggressively with law enforcement due to the belief it will provide relief from chemical irritants like pepper spray or CS gas.

6. I observed the crowd at SW 3rd Ave / SW Main St where I was positioned being given several directions from the sound truck to move west and disperse from the area, otherwise they were subject to use of force or arrest. I was aware at this time that the gathering in the vicinity of the Justice Center had been declared an unlawful assembly. I could audibly hear the announcements that were repeated several times. Officers on the line, including myself, verbally told the protesters they needed to move back several times. When announcements were made from the sound truck, the crowd would yell negatively in response to it instead of following the requests. They responded to us similarly when we would give the same commands.

7. Objects began to be thrown from the back of the crowd. The objects I observed being thrown in response to my and other officers' instructions for the crowd to leave the area included rocks, batteries, water bottles, fireworks, and other unknown objects. There was no physical barrier between protesters and Police and the distance between the two groups would increase and decrease based on Police movement. If we withdrew our resources, the crowd



would advance in the same direction. There were at least 300-400 citizens who outnumbered the Officers significantly.

8. Amongst the crowd, there was a mix of individuals who were not trying to negatively engage the Police, but others wanted to yell directly in our faces, place their phones close to our face to film, disrupt field of vision, and/or create an annoyance, or take a rigid stance with a bladed body that made me believe they were not planning to move through verbal direction. The sound truck continued to give very loud instructions and I could visually see that there was the space for the group to leave the area freely by moving west as they were being instructed.

9. The sound truck was used to give calm, clear, articulable, and attainable instructions. The ability to exercise the attendees' First Amendment rights was encouraged so long as they remained peaceful. Notwithstanding the throwing of objects and riotous behavior of some of the demonstrators, a considerable amount of time was given to achieve the desired instructions from the sound truck. We also had multiple resources available in the area to help facilitate the instructions. Police Liaisons were clearly marked in a different uniform, were available, and receptive to engaging in conversation had the protesters been willing to engage them. The placement of uniformed resources were located in a manner from building to building (Justice Center to federal courthouse) to also safely allow the movement to the west.

10. I was standing on the north sidewalk of SW Main St, just a few steps in from the edge where the street meets the sidewalk. All areas in front of us, building to building, was packed closely with citizens who were refusing commands to disperse west. They had converged on our location and in addition to the sound truck announcements I had also admonished the crowd in front of me that if they did not move, force may be used against them. I could not hear the individuals' responses as the crowd in mass was making a lot of noise, but with the number of announcements made from the sound truck, I was certain the messaging was heard. I had my baton held in front of my person at my waist, per my training. As we gave the verbal orders to

disperse, following the sound truck announcement, the front line of Officers and I began to walk westbound on SW Main St. Some of the citizens now walked back freely without any physical contact made. This made me believe citizens both heard the sound truck, the line Officer announcements, they observed the surrounding activity, and obeyed the lawful order.

11. A younger, thin black male, approximately 5'11", wearing a light gray hooded sweatshirt and maroon style sweatpants, was directly in front of me with his cell phone in front of both his face and my face. Instead of moving with the crowd, he continued to talk either into his phone or to chant and not move. I gave additional orders to move and noted there was space to do so, as citizens in all directions were moving. When the individual again refused to move, I used my baton to push into the subject's waist area with one push. The subject tried to resist the movement, but was pushed backwards and remained on his feet. No additional physical contact was needed to encourage his movement west per the multiple directions provided. Due to the dynamic nature of the event, I was not able to gather his name or other identifying information.

12. Immediately in succession to the force noted in paragraph 11, above, I turned my attention to another subject standing within 2 feet of the person described in paragraph 11. I had no reason to believe the two were associated with one another, beyond attending the same protest and refusing Officers' lawful commands to disperse. This individual was approximately 5'2"-5'3" tall, with an average build, wearing all black. I was not able to identify gender or age, but the person was white. Multiple orders had now been given over the sound truck and verbally from multiple Officers on the line for this individual to move west. While the crowd was actively moving backward in response to the verbal directions and our movements, this person bladed their body with their left foot forward and slightly dropped their weight, taking a rigid stance. As I approached this person, they chose to remain rigid. I slightly dropped my hips to be able to drive my weight with baton out to push the person's forearm and torso area with one push. As I did this, I instructed the individual again that they needed to move. The physical contact made the person move their feet, but they did not lose balance or control of their footing. In response to

this force the individual complied with our lawful orders and began moving west. Due to the dynamic nature of the event, I was not able to gather his name or other identifying information.

13. Sometime after 2300 hours, a large group had regathered in the vicinity of the Justice Center. At this time, our squad was now facing westbound holding the area between the Justice Center and federal courthouse. Information was relayed to us that the courthouse had potentially been breached. There was also information relayed that a truck had arrived and was potentially providing protesters with projectiles, and that fires were being started in the nearby park across the street. Objects again began being thrown at me and other Officers on the line. Sound trucks continuously gave offending individuals warnings not to throw projectiles, to leave the area as previously ordered, or force would be used to disperse them. As the crowd continued to disobey commands to disperse and continued to throw objects, I deployed a 2-chlorobenzalmalononitrile ("CS") gas containing hand-toss munition in the area of SW 3rd Ave / SW Main St to aide in the dispersal of the crowd. I tried to place the munition within approximately 10 feet of the individuals who were refusing instructions to leave the area and throwing objects at officers. I saw it land in the area intended, near the fencing (southeast side of the intersection). The individuals who had refused commands to leave the area and who were throwing objects began to leave the area in response.

14. After 2330, but most likely closer to 0000 hours, I and other officers on the line moved to the area of SW 5th Ave / SW Columbia St where we observed a group of at least 100 individuals who were headed southbound on SW 5th Ave. The group began picking up items and throwing them our direction. I saw other spent munitions on the ground that protesters were picking up and throwing back at officers. I deployed a CS gas hand-toss munition in the area of SW 5th Ave / SW Columbia St to aide in the dispersal of the crowd. I tried to place the munition within approximately 20 feet of the protesters. I saw it land in the middle of the street of SW 5th Ave, south of SW Columbia St. Deployment of the gas resulted in the group starting to leave the area.



15. I make this declaration in support of Defendant City of Portland's Response to Plaintiffs' Motion for Preliminary Injunction.

**I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.**

DATED: 07-04-2020

